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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/494,954	02/01/2000	Roger A. McCurdy	TRW(TE)4170	4158

7590

12/23/2002

Tarolli Sundheim Covell Tummino & Szabo LLP  
1111 Leader Building  
526 Superior Avenue  
Cleveland, OH 44114-1400

EXAMINER

LUM, LEE S

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 12/23/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicant No.

09/494,954

Applicant(s)

MCCURDY, ROGER A.

Examiner

Ms. Lee S. Lum

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Amendment filed 8/21/02.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 10, 12-14, 17 and 22 is/are rejected.
- 7) ☒ Claim(s) 5-9, 11-13, 15, 16 and 18-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

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**DETAILED ACTION**

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1. This Office Action replaces that mailed 11/5/02.

As explained on the Interview Summary for 11/12/02 (attached), attorney B. Tummino called to comment that in the last Office Action mailed 11/5/02, Thompson was incorrectly applied, and the finality of the Action was wrong. Upon review of the file, Examiner maintains that the finality was proper, but agrees that Thompson was incorrectly applied. This Office Action removes Thompson as prior art.

2. An Amendment was filed 8/21/02 in which Claims 1, 10, 14 17 and 22 were amended.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

**Claims 1-4, 10, 14, 17 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Ross 5884203. \***

Ross discloses system 10 for protecting a vehicle occupant comprising  
crash sensor/accelerometer 12,  
acoustic sensor 14 which senses acoustic activity propagating through the vehicle structure, and provides signals indicative of the crash event (Col 4, lines 1-6; "high-frequency signals generated as a result of metal being deformed during a crash event"),  
occupant protection devices (unidentified), and,  
controller 22 controlling actuation of the protection devices in response to both crash and acoustic sensors separately indicating the occurrence of a deployment crash event.

\* Examiner apologizes for employing the erroneous section -102(b) - of this rejection in the previous Office Action mailed 5/17/02.

4. **Claims 5-9, 11-13, 15, 16 and 18-21** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. **RESPONSE TO REMARKS**

Examiner reiterates her rejections using Ross and Thompson. Ross clearly describes the "controller [controlling] actuation of the protection devices in response to both crash and acoustic sensors separately indicating the occurrence of a deployment crash event" (emphasis added) beginning in col 4, line 49, to col 5, line 16. This paragraph provides each sensor as outputting a signal indicating the occurrence of a deployment crash event.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. **Communication with the Examiner and USPTO**

Any inquiry concerning this communication should be directed to Ms. Lum at (703) 305-0232, 9-530, M-F. Our fax number is (703) 872-9326, 872-9327 for after-final communications, and 308-2571 for faxes having given prior notice to the examiner. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Assistance at (703) 306-5771.

Ms. Lee S. Lum, Examiner  
12/17/02



  
Lesley D. Morris  
~~Primary Examiner~~  
SPEAU3611

# *Intervi w Summary*

Application N .

09/494,954

Applicant(s)

MCCURDY, ROGER A.

Examiner

Ms. Lee S. Lum

Art Unit

3611

All participants (applicant, applicant's representative, PTO personnel):

(1) Ms. Lum - examiner

(3) \_\_\_\_\_

(2) B. Tummino - attorney

(4) \_\_\_\_\_

Date of Interview: 12 December 2002 .

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☒ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: \_\_\_\_\_ .

Claim(s) discussed: 5-9,11-13,15,16 and 18-21 .

Identification of prior art discussed: Ross and Thompson .

Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: see Addendum .

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) ☒ It is not necessary for applicant to provide a separate record of the substance of the interview(if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.


Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

\_\_\_\_\_  
Examiner's signature, if required

### Addendum to Interview Summary

About 11/12/02, attorney B. Tummino called to comment on the Office Action mailed 11/5/02. It was his opinion that the Office Action was an improper final rejection, and that Thompson 6020812 was incorrectly used with Ross 5884203.

Upon review of the file, Examiner maintains that the Office Action was a proper final rejection, but agrees that Thompson was incorrectly applied. A new final rejection is being provided reflecting this correction, and time restarted. Mr. Tummino was informed of this status on 12/17/02.

  
Lesley D. Morris  
Primary Examiner

Ms. Lee S. Lum  
Examiner  
12/17/02

